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## **Interprovincial Summonses Act**

R.S.O. 1990, CHAPTER I.12

**Consolidation Period:** From December 6, 2000 to the e-Laws currency date.

Last amendment: 2000, c.26, Sched. A, s.10.

### **Definitions**

1.In this Act,

“court” means any court in a province; (“tribunal”)

“province” means a province of Canada and includes each of the territories of Canada;  
(“province”)

“summons” means a summons or other document issued by a court, an agency, board or commission, or another person authorized to issue summonses, requiring a person within a province other than the one where the document is issued to attend as a witness at a trial, hearing or examination, to produce documents or other things or to testify before the issuing body or person. (“assignation”) R.S.O. 1990, c. I.12, s. 1; 1993, c. 27, Sched.; 1999, c. 12, Sched. B, s. 11; 2000, c. 26, Sched. A, s. 10 (1).

### **Adoption of interprovincial summons**

2.(1)A court in Ontario shall receive and adopt as an order of the court a summons issued in another province if,

- (a) the summons is accompanied by a certificate signed by a judge of a superior, county or district court of the issuing province and impressed with the seal of that court, signifying that, upon hearing and examining the applicant, the judge is satisfied that the attendance in the issuing province of the person subpoenaed,
  - (i) is necessary for the due adjudication of the proceeding in which the summons is issued, and
  - (ii) in relation to the nature and importance of the cause or proceeding, is reasonable and essential to the due administration of justice in that province; and
- (b) the summons is accompanied by the witness fees and travelling expenses in accordance with Schedule 1. R.S.O. 1990, c. I.12, s. 2 (1); 2000, c. 26, Sched. A, s. 10 (2).

### **Form of certificate**

(2)The certificate to which reference is made in clause (1)(a) may be in the form set out in Schedule 2 or in a form to the like effect. R.S.O. 1990, c. I.12, s. 2 (2).

### **Immunity by law of other province**

3.A court in Ontario shall not receive a summons from another province under section 2 unless the law of that other province has a provision similar to section 6 providing absolute

immunity to a person in Ontario who is required to attend as a witness in the other province from all proceedings of the nature set out in section 6 and within the jurisdiction of the Legislature of that other province except only those proceedings grounded on events occurring during or after the required attendance of the person in the other province. R.S.O. 1990, c. I.12, s. 3.

### **Failure to comply with adopted summons**

4. Where a person who has been served with a summons adopted under section 2 and given the witness fees and travelling expenses in accordance with Schedule 1 not less than ten days, or such shorter period as the judge of the court in the issuing province may indicate in his or her certificate, before the date the person is required to attend before the issuing body or person, fails without lawful excuse to comply with the order, the party is in contempt of the adopting court and subject to such penalty as that court may impose. R.S.O. 1990, c. I.12, s. 4; 2000, c. 26, Sched. A, s. 10 (3).

### **Proceedings in Ontario**

5.(1) Where a party to a proceeding in any court in Ontario causes a summons to be issued for service in another province, the party may attend upon a judge of the Superior Court of Justice, who shall hear and examine the party or the party's counsel if any, and, upon being satisfied that the attendance in Ontario of the person required in Ontario as a witness,

- (a) is necessary for the due adjudication of the proceeding in which the summons or other document has been issued; and
- (b) in relation to the nature and importance of the proceedings, is reasonable and essential to the due administration of justice in Ontario,

shall sign a certificate which may be in the form set out in Schedule 2 and shall cause the certificate to be impressed with the seal of the court. R.S.O. 1990, c. I.12, s. 5 (1); 2000, c. 26, Sched. A, s. 10 (4).

### **Certificate**

(2) The certificate shall be either attached to or endorsed on the summons. R.S.O. 1990, c. I.12, s. 5 (2).

### **No submission to jurisdiction**

6. (1) A person required, by a summons adopted by a court outside Ontario, to attend in Ontario before a court, an agency, board or commission, or another person authorized to issue summonses shall be deemed, while within Ontario for the purposes for which the summons was issued, not to have submitted to the jurisdiction of the issuing body or person in Ontario other than as a witness in the proceedings in which the person is summonsed. 2000, c. 26, Sched. A, s. 10 (5).

### **Immunity**

(2) A person required to attend under subsection (1) shall be absolutely immune from seizure of goods, service of process, execution of judgment, garnishment, imprisonment or molestation of any kind relating to a legal or judicial right, cause, action, proceeding or process within the jurisdiction of the Legislature of Ontario except only those proceedings grounded on events occurring during or after the required attendance of the person in Ontario. 2000, c. 26,

Sched. A, s. 10 (5).

### **Order for additional witness fees and expenses**

**7. (1)** A person who is required, by a summons adopted by a court outside Ontario, to attend in Ontario before a court, an agency, board or commission, or another person authorized to issue summonses, may request the issuing body or person in Ontario to order additional fees and expenses to be paid for attendance as a witness. 2000, c. 26, Sched. A, s. 10 (5).

### **Disbursements in the cause**

**(2)** If the issuing body or person in Ontario is satisfied that the amount of fees and expenses previously paid to the person required to attend for the attendance is insufficient, it may order the party who obtained the summons to pay forthwith to the person required to attend those additional fees and expenses that it considers sufficient and amounts paid pursuant to an order made under this section are disbursements in the cause. 2000, c. 26, Sched. A, s. 10 (5).

### **Non-application of Act**

**8.** This Act does not apply to a summons that is issued with respect to a criminal offence under an Act of the Parliament of Canada. R.S.O. 1990, c. I.12, s. 8.

## SCHEDULE 1

### WITNESS FEES AND TRAVELLING EXPENSES

The witness fees and travelling expenses required to be given to the witness upon service of an interprovincial subpoena shall be a sum of money, or a sum of money together with valid travel warrants, sufficient to satisfy the following requirements:

1. The fare for transportation by the most direct route via public commercial passenger carrier between the witness's place of residence and the place at which the witness is required to attend, in accordance with the following rules:

If the journey or part of it can be made by air, rail or bus, that portion of the journey shall be by airline, rail or bus by tourist class or equivalent class via carriers on which the witness can complete his or her total journey to the place where he or she is required to attend on the day before his or her attendance is required.

If railway transportation is necessary for part of the journey and sleeping accommodation would normally be obtained for such a journey, the fare for sleeping accommodation shall be included.

In the calculation of the fare for transportation, the most rapid form of transportation by regularly scheduled carrier shall be accorded priority over all other forms.

If the material which the witness is required to produce is of such weight or size as to attract extra fares or charges, the amount so required shall be included.

2. The cost of hotel accommodation for not less than three days at the place where the witness is required to attend, in an amount not less than \$60.
3. The cost of meals for the total journey and for not less than three days at the place where the witness is required to attend, in an amount not less than \$48.
4. In addition to the amounts described above, an allowance of \$20 for each day of

absence from the ordinary residence of the witness, and the witness shall be paid on account of this allowance not less than \$60.

R.S.O. 1990, c. I.12, Sched. 1; 2000, c. 26, Sched. A, s. 10 (6).

## SCHEDULE 2

### CERTIFICATE

I, ..... , a judge of the Superior Court of Justice certify that I have heard and examined  
(name of judge)

..... who seeks to compel the attendance  
of ..... to produce documents or  
(name of applicant party or counsel) (name of witness)  
other articles or to testify, or both, in a proceeding in Ontario in  
the ..... styled .....

(name of body before which witness is to appear)

..... I further certify that I am persuaded that the appearance  
of .....

(style of proceeding) (name of witness)

as a witness in the proceeding is necessary for the due adjudication of the proceeding, and, in relation to the nature and importance of cause or proceeding, is reasonable and essential to the due administration of justice in Ontario.

The *Interprovincial Summons Act* makes the following provisions for the immunity  
of .....

(name of witness)

A person required, by a summons adopted by a court outside Ontario, to attend in Ontario before a court, an agency, board or commission, or another person authorized to issue summonses shall be deemed, while within Ontario for the purposes for which the summons was issued, not to have submitted to the jurisdiction of the issuing body or person in Ontario other than as a witness in the proceedings in which the person is summonsed.

A person required to attend shall be absolutely immune from seizure of goods, service of process, execution of judgment, garnishment, imprisonment or molestation of any kind relating to a legal or judicial right, cause, action, proceeding or process within the jurisdiction of the Legislature of Ontario except only those proceedings grounded on events occurring during or after the required attendance of the person in Ontario.

Dated this .....day of ....., .....

(seal of the .....  
court)

(signature of judge)

2000, c. 26, Sched. A, s. 10 (7).

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